



POLICE DEPARTMENT

April 14, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Christine Thomson
Tax Registry No. 939580
100 Precinct
Disciplinary Case No. 2014-12046

The above-named member of the Department appeared before me on December 1, 2014, charged with the following:

1. Said Police Officer Christine Thomson, assigned to Staff Services Section, on or about May 1, 2014, while off-duty, did wrongfully engage in conduct prejudicial to the good order, efficiency, and discipline of the Department, to wit: said Officer failed to identify herself as a Member of the Service when being questioned by Detectives from the Warrant Squad.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

2. Said Police Officer Christine Thomson, assigned to Staff Services Section, on or about May 1, 2014, while off-duty, did wrongfully engage in conduct prejudicial to the good order, efficiency, and discipline of the Department, to wit: said Officer failed to cooperate with Detectives of the Warrant Squad who were looking for her brother in that she stated that her brother was not at home without checking for his presence and refused to allow them to conduct a search inside.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT

The Department Advocate's Office was represented by Jennifer Kim, Esq.

Respondent was represented by John Tynan, Esq.

Respondent, through her counsel, entered a plea of Guilty to one of the subject charges and a plea of Not Guilty to the remaining charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Specification No. 1

Respondent, having pleaded guilty, is found Guilty.

Specification No. 2

Respondent is found Guilty in part.

SUMMARY OF EVIDENCE PRESENTED

Introduction

It is not disputed that May 1, 2014, Detectives Robert Nowak and Michael Cosme were on duty, dressed in plainclothes, assigned to the Queens Warrant Squad; that they were assigned to arrest Person A who was wanted regarding a felony assault charge; and that Person A is Respondent's brother and resides in an apartment on the [REDACTED] floor of the house that Respondent owns and also resides in at [REDACTED] [REDACTED], [REDACTED]

When Cosme and Nowak arrived at Respondent's residence at 0645 hours, Respondent was aware before she opened the front door that they were uniformed members of the service (UMOS) because they had their shields out and one of them had held his shield up so it could be seen through the glass window on her front door. Respondent opened the door and engaged in a conversation with Cosme but she did not

identify herself as being a UMOS. Cosme handed her a Queens Warrant Squad business card [Respondent's Exhibit (RX) A]. On this card, he wrote his telephone number and on the line next to "Inv." he wrote "Michael." Cosme and Nowak then walked away from the front door, but returned a short time later.

The Department Advocate's Case

The Department Advocate called Detectives Cosme and Nowak as witnesses.

Detective Michael Cosme

Cosme recalled that when Respondent opened the door, she only opened it five to ten inches wide. Cosme identified himself as "Detective Michael," he told her that they were "looking for" an individual, and he showed Respondent [REDACTED]'s DMV photo. She told Cosme, "That's my brother." When Cosme asked for her name, she only told him "Christine" and she refused to give her last name. Cosme asked, "Is he here now? I would like to speak to him." Respondent replied, "He's not here right now. He's at work." When Cosme asked if he could come in she replied, "No." He "asked her if she can call him." She replied, "No, give me your number and I will have him call you." Cosme then handed her his card (RX A), she closed the door, and he and Nowak walked away from the front door.

They began to approach people on the street. Ten to 15 minutes after they had walked away from the front door, a neighbor told them that Person A's sister is "a cop." They immediately returned to the house. When Respondent opened the front door, Cosme asked her, "Are you on the job?" She replied, "Yes." Cosme asked her, "Where

do you work out of?" She replied, "The 112." Cosme then told her, "Your brother is a suspect in an assault two investigation," and asked her, "Do you know Detective Nolan from the [112 Precinct] squad?" She replied, "Yes." Cosme then asked her, "Is he in the house?" She replied, "No." Cosme then told her, "He needs to turn himself in to the 112 Precinct as soon as possible." Cosme showed her photos of the victim of the assault. She then closed the door and he and Nowak walked away from the front door, but they remained in the area. Cosme called his supervisor who told him that he was directing a sergeant to respond to the scene. Five to ten minutes later, Cosme saw Person A exit the house through the front door. He was not wearing street clothing. Cosme and Nowak told Person A to go back into the house and get dressed because "you're coming with us." Person A re-entered the house, got dressed, and, when he came back outside, Cosme and Nowak arrested him.

On cross-examination, Cosme agreed that when he asked Respondent if he could come in, she had the right to reply, "No," and to close the door on him and Nowak. Cosme explained that the reason that he wrote only "Michael" on the line for the name of the investigator on the card he handed Respondent (RX A) was because an officer he had worked with in the Manhattan Warrant Squad who wrote his full name on his business card had received threatening calls at home from a wanted suspect. Cosme agreed that when he told Respondent that her brother needed to turn himself in at the 112 Precinct, she did not refuse to relay this message to her brother. Cosme confirmed that she told him that she would let her brother know what Cosme had said to her.

Detective Robert Nowak

Nowak testified that when he and Cosme arrived at the front door of the house the first time that day, he stood slightly away from door and that only Cosme conversed with Respondent. Nowak only heard a part of this conversation. He did recall hearing Respondent refuse to give Cosme her last name or a phone number at which she could be contacted. Respondent closed the front door while they were still standing in front of it.

Nowak recalled that when he and Cosme returned to the house, he took the lead this time and that he and Cosme were both standing in front of the door when he asked Respondent, "Are you a cop?" She replied, "Yes." When he asked her, "Where do you work?" She replied, "112." Nowak recalled that when he told Respondent, "We're looking for your brother," she asked him, "For what?" While he and Cosme were waiting for the sergeant to arrive, they saw Person A come out of the house through the front door. Person A asked them, "Hey guys, what's going on?"

On cross-examination, Novak confirmed that because Person A was wearing pajamas he told him to go back inside the house and change and that he told him "we're not going to come in the house." When Nowak was asked whether Respondent had the right to refuse to allow the detectives to enter the house, he answered, "Everyone does."

Respondent's Case

Respondent testified in her own behalf.

Respondent

Respondent recalled that when she opened the front door, the first thing she was asked is, "Does Person A live here?" Respondent identified herself as Person A's sister and told the detectives that her brother resided on the second floor of the house but that he was not at home. Respondent asserted that she believed that he was not at home because the bell on the front door rings on both the first floor and the second floor, where Person A lived, and since Person A did not come to the front door, Respondent assumed that he had left the house. One of the detectives handed a card to Respondent (RX A) and told her to have Person A give him a call. The detectives then left.

When Respondent went to place the card that the detective had handed her on the stairs leading up to Person A's second floor apartment, she noticed "Queens Warrants" was printed on the card. Before she noticed this, Respondent had assumed the detectives were from the 104 Precinct because Person A had helped officers assigned to that command conduct a canvass for a suspect who was breaking into cars.

Respondent asserted that after she saw "Queens Warrants" on the card, she texted Person A asking where he was. After she learned that Person A was still inside his apartment, she called him, told him that detectives from Queens Warrants wanted to speak to him, asked him if everything was alright, and told him come downstairs. Respondent went to the bathroom while she waited for Person A to come downstairs. When she came out of the bathroom and saw that Person A had not yet come downstairs, she started to walk to the hallway to check on him. At that point, she noticed that the two detectives had returned to the front door.

When she opened the door, Nowak asked her if she was a "MOS" and whether she worked in the 112 Precinct. She answered in the affirmative. Cosme then showed Respondent a file containing a picture of an injured female who had alleged that Person A had assaulted her.

On cross-examination, Respondent recalled that when the detectives first came to her door and asked if Person A was there, they only told her that his name had come up in an investigation. She told them that she was his sister Christine, but she did not tell them that she was a UMOS. She told them that Person A was at work because she believed that he had left the house and gone to work. Respondent recalled that the detectives asked her if they could go up and search the apartment, but she did not allow them to do that because she had a dog and she believed that Person A was not home.

FINDINGS AND ANALYSIS

Specification No. 1

Since Respondent pleaded guilty to having failed to identify herself as a UMOS when she was being questioned by detectives from the Warrant Squad, she is found Guilty.

Specification No. 2

This specification consists of two separate allegations of misconduct: That Respondent failed to cooperate with the detectives who were looking for her brother in that 1) she stated that her brother was not at home without checking for his presence; and in that 2) she "refused to allow them to conduct a search inside."

Respondent corroborated Cosme's testimony that during their first conversation at her front door he asked her if her brother was at home and she told him that her brother was not at home. Respondent asserted that she had not lied to Cosme because at that point she truly believed that her brother had gone to work. Respondent asserted that after the detectives left, she texted her brother; learned that he was still inside his apartment; called him and told him that detectives from Queens Warrants wanted to speak to him; asked him if everything was alright; and told him come downstairs. However, I reject this testimony because I credit Cosme's claim that during their second conversation at the front door, he again asked her, "Is he in the house?" and she again replied, "No."

As a result, Respondent is found Guilty of that part of the specification that charges her with failing to cooperate with the detectives in that she stated that her brother was not at home without having checked to see if he was inside his apartment.

As to the second allegation that Respondent failed to cooperate with the detectives who were looking for her brother in that she "refused to allow them to conduct a search" for her brother inside the house, both Cosme and Nowak supported Respondent's claim that she was under no obligation to comply with their request that they be allowed to come into the house to look around for her brother. Most significantly, the Assistant Department Advocate (the Advocate) did not refute Respondent's claim that her brother's apartment on the second floor constituted a separate dwelling and that it was solely occupied by him. Thus I find that Respondent could not have given the detectives permission to search her brother's apartment. Therefore, Respondent is found not guilty of that part of the specification that charges her with failing to cooperate with the detectives in that she "refused to allow them to conduct a search inside."

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 11, 2005. Information from her personnel record that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

The Advocate recommended that Respondent forfeit 20 vacation days. The Advocate did not cite any previous disciplinary decisions to support this penalty recommendation.

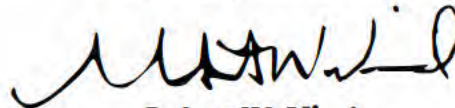
In *Case No. 2012-7976* (Dec. 31, 2013), a 29-year detective, who had no prior formal disciplinary record and outstanding performance evaluations, forfeited a penalty of 22 suspension days he had already served after he was found guilty at trial of having failed, while he was off duty, to identify himself as a UMOS to responding on-duty UMOS who confronted him. However, in that case, the detective was also found guilty of failing to comply with orders issued to him by the responding UMOS and possessing a firearm that had been modified without the permission of the Firearms Section.

Also, in *Case No. 2013-10173* (Feb. 18, 2014), a six-year police officer who had no formal disciplinary record forfeited a penalty of 30 vacation days after he pleaded guilty to failing, while he was off-duty, to identify himself as a UMOS to responding on-duty UMOS. However, the officer in that case also pleaded guilty to four other related charges: failing to comply with orders issued to him by the responding UMOS; wrongfully engaging in a physical altercation with a civilian; cursing at the responding UMOS; and consuming an intoxicant to the extent that he was unfit for duty.

Respondent here is a nine-year officer who has no prior formal disciplinary record. Compared with the five acts of misconduct committed by the officer in the 30-day penalty case cited above, Respondent here has committed only two acts of misconduct: failing to identify herself as a UMOS to responding detectives and failing to cooperate with these detectives in that she told them that her brother was not at home without checking for his presence. The penalty to be imposed on Respondent here should reflect the disparity between her misconduct and the misconduct committed by the officer in the cited case.

Accordingly, it is recommended that Respondent forfeit ten vacation days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner – Trials

APPROVED

UHL 24 2856

WILLIAM J. BRATTON
POLICE COMMISSIONER

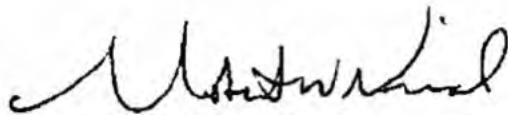
**POLICE DEPARTMENT
CITY OF NEW YORK**

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHRISTINE THOMSON
TAX REGISTRY NO. 939580
DISCIPLINARY CASE NO. 2014-12046

The Respondent received an overall rating of 3.0 on her 2014 annual performance evaluation, 3.0 on her 2012 evaluation, and 3.5 on her 2011 evaluation. She has been awarded two Excellent Police Duty medals. [REDACTED]
[REDACTED]

On August 30, 2014, she was placed on Level 2 Disciplinary Monitoring which is continuing.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner – Trials